

**ORIGINAL**

IN THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF TENNESSEE  
NORTHERN DIVISION

**FILED**

OCT 08 2009

CATHERINE GEBHARDT,

)

Petitioner,

)

)

Vs.

)

CIVIL ACTION

)

FILE NO. 3:09-CV-00425-TWP

)

GMAC MORTGAGE, LLC and

)

MGC MORTGAGE, INC.,

)

)

Respondents.

)

Clerk, U. S. District Court  
Eastern District of Tennessee  
At Knoxville

**BRIEF IN SUPPORT OF MGC MORTGAGE, INC.'S**  
**MOTION TO DISMISS PETITION**

COMES NOW MGC MORTGAGE, INC. and in support of its Motion to Dismiss Petition, shows the court as follows:

As admitted by Petitioner in her Petition, MGC Mortgage, Inc. is but a mere transferee of the indebtedness and security instrument that is the subject of this action. MGC did not originate the loan in question, and consequently Petitioner wholly fails to state a cause of action against MGC, for the reasons set forth in the Brief in Support of GMAC Mortgage, LLC's Motion to Dismiss Petition, which arguments and Brief are for the sake of brevity incorporated herein by this reference as if fully set forth herein *verbatim*.

WHEREFORE, MGC Mortgage, Inc. requests that the Court DISMISS this action in its entirety and with prejudice as against it.

This the 7 day of October, 2009.

MCCURDY AND CANDLER, L.L.C.

By: 

Frank R. Olson

TN B.P.R. No. 023999

Laura A. Grifka

TN B.P.R. No. 015119

Attorney for Defendant MGC  
Mortgage, Inc.

P. O. Box 57

Decatur, GA 30031

TEL: (404) 373-1612

FAX: (678) 891-5769

EMAIL: [folson@mccurdycandler.com](mailto:folson@mccurdycandler.com)

CERTIFICATION

The foregoing pleading was prepared using the Microsoft Word 2003 word processing program, in 12-point Courier New font, and was served by regular United States mail to the following:

Andrew Farmer  
103 Commerce Street  
Sevierville, TN 37862

Christopher Thorsen  
Bradley Arant Boult Cummings  
1600 Division St., Ste 700  
Nashville, TN 37203

This 7 day of October, 2009.

By: 

Frank R. Olson  
TN B.P.R. No. 023999  
Laura A. Grifka  
TN B.P.R. No. 015119  
Attorney for Defendant MGC  
Mortgage, Inc.

P.O. Box 57  
Decatur, Georgia 30031  
Telephone: 404-373-1612